

## REMARKS

Before entry of this Amendment, claims 1, 22 and 27-45 were pending in the application. After entry of this Amendment claims 1, 22 and 27-45 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicant has carefully considered the Examiner's Action of July 28, 2005, and the references cited therein. The following is a brief summary of the substantive rejections in the Action. Claims 1, 22 and 27-45 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 34 12 920 A1. Claims 1, 22 and 27-45 also were rejected under 35 U.S.C. 102(b) as being anticipated by Wochnowski (DE 28 41 494 C2). Claims 1, 22 and 27-45 also were rejected under 35 U.S.C. 102(b) as being anticipated by DD 3 87 573 A5. Claims 1, 22 and 27-45 also were rejected under 35 U.S.C. 102(b) as being anticipated by Nagao et al. (USP 4,766,966).

Per the Examiner's request, Applicant submits copies of foreign documents DE 34 12 920 A1, and DE 28 41 494 C2 listed on the German search report.

The Examiner requested submission of a copy of the document identified as DD 3 87 573 A5 on the German search report. However, while 3 87 573 is the number listed on the German search report, Applicant's representative before the German Patent Office assures the undersigned that the first digit ("3") that is listed for this entry in the German search report is a typographical error and that document DD 3 87 573 A5 does not exist. A copy of Document DE 387573 is enclosed, and the Examiner can determine from its drawings that it does not relate to the subject patent application.

Applicant therefore respectfully submits that claims 1, 22 and 27-45 are patentable under 35 U.S.C. 102(b) over DD 3 87 573 A5.

Applicant's representative before the German Patent Office assures the undersigned that the actual document that was cited in the German Patent Office is DD 2 87 573 A5, a copy of which Applicant previously submitted. Anticipating that document DD 2 87 573 A5, which is not in the English language, will require a concise explanation of its relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c), most knowledgeable about the content of the information of such document, the following explanation is provided according to Applicant's German representative. Accordingly, in accordance with 37 C.F.R. §§ 1.97 -1.98, Applicant respectfully requests the Examiner to indicate consideration of this document DD 2 87 573 A5.

The invention of Document DD 2 87 573 A5 finds its applications in the mechanical and chemical process technology, rubber industry, plastics processing, but also the foodstuff industry and pharmacy. Document DD 2 87 573 A5 describes a method for the rapid and accurate loading with flowable material. Document DD 2 87 573 A5 describes a mass flow rate for a liquid and its most favorable speed. The function and purpose of the method of Document DD 2 87 573 A5 is to keep a flow of material as constant as possible at an admissible maximum speed. At this point, the acceleration and deceleration of the mass flow rate plays a role in filling in liquids to avoid an overshoot. In Document DD 2 87 573 A5, the speed of the flow of liquid is checked for conformity with a desired-speed curve as a guidance function.

The method described in Document DD 2 87 573 A5 can be designated non-generic as it does not relate to the specific nature of fibrous material and, further, is not applicable to fibrous material at all. In Document DD 2 87 573 A5, the material is neither detached from a fiber bale nor transported into a weigh hopper having a pre-loading chamber. In Document DD 2 87 573 A5, the material collected in the weigh hopper is not dropped onto a belt for blending. Filling in liquids as in Document DD 2 87 573 A5 is not comparable to weighing and composing blends of fibers. Fibrous material will not flow. It is the liquid tailings that occur at high

filling speeds which can be considered the only common feature, which leads to faults in dosage, which would be comparable to overshoots by large, non-opened material volumes in loading the weigh hopper.

However, the conveyance will also result in the fibrous material becoming opened, which is completely out of the question for flowable material, i.e., liquids.

As to document DE 1510247, Applicant explained at page 2, lines 1 - 2 of the Communication submitted on March 8, 2005, that DE 1510247 was cited in an opposition against the European Patent that corresponds to the subject application. It was for this reason that DE 1510247 was cited by Applicant and a copy submitted to the Examiner, notwithstanding the absence of this document on the search report issued by the German Patent Office. While document DE 15 10 247 was cited in the opposition against the European Patent counterpart of the subject application, Applicant's German representative explained that the opponent in the opposition did not explain why this document was cited in the opposition. However, anticipating that the document DD 287573 A5, which is not in the English language, will require a concise explanation of its relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c), most knowledgeable about the content of the information of such document, the following explanation is provided according to Applicant's German representative. Accordingly, in accordance with 37 C.F.R. §§ 1.97 -1.98, Applicant respectfully requests the Examiner to indicate consideration of this document.

Document DE 15 10 247 describes a control device for periodical walking fiber material mixing apparatus. In Document DE 15 10 247, a transport belt is transporting fibrous material to a mixing device. The fibrous components of different weighing devices eventually come together on the transport belt in the course of mixing different components. If the full weight of every component is reached, then the control device should stop the transport belt exactly in such a position that each of components A, B and C (see drawing) is disposed on the desired place on the transport

belt. The control device described in DE 15 10 247 is directed to special switching devices and relay to make an accurate stop of the transport belt.

As each rejection is addressed, Applicant submits herewith a concise explanation of the relevance, as it is presently understood by the Applicant's German representative, who is the individual designated in 37 CFR 1.56(c), most knowledgeable about the content of the information of each patent used in the rejection that is not in the English language.

Claims 1, 22 and 27-45 were rejected under 35 U.S.C. 102(b) as being anticipated by DE 34 12 920 A1, which is described at page 6, line 12 through page 7, line 4 of the English text of the subject application. It is believed that the German Patent Office cited DE 34 12 920 A1 because rough dosage is performed in a prechamber 3 via the conveyance line 2a. While the prechamber 3 is loaded, it is separated from the weigh hopper 10 by a shut-off device 4. Rough dosage is effected by a high-speed belt conveyor 2a, which conveys large volumes. Once the rough dosage volume is reached, then the access to the prechamber 3 is blocked and the contents of the prechamber 3 are emptied into the weigh hopper 10. Fine dosage is then performed via a second supply line 1 and a second belt conveyor 1a, which opens directly into the weigh hopper 10.

DE 34 12 920 A1 fails to employ weighing and fails to make use of any theoretical weight curve in a control function for the sped of the material fed device and thus fails to anticipate any of independent claims 1, 22, 34, 37, 40, 43 and 45, or any of the claims dependent on any of these independent claims. At best, DE 34 12 920 A1 relates to claim 38, the difference being that claim 38 requires a material supply device that is intended to operate continuously, although ejection from the weigh hopper is

discontinuous. According to DE 34 12 920 A1, the conveyance devices 2a and 1a are both stopped, thus interrupting the transport of material and failing to operate continuously. DE 34 12 920 A1 does not allow the person of ordinary skill to deduce anything about material transport leading up to the two belt conveyors 1a and 2a. See also the description on page 3, lines 14 to 18, of the English text of the subject application.

Applicant therefore respectfully submits that claims 1, 22 and 27-45 are patentable under 35 U.S.C. 102(b) over DE 34 12 920 A1.

Claims 1, 22 and 27-45 were rejected under 35 U.S.C. 102(b) over DE 28 41 494 C2, which is described at page 7, lines 5-15 of the English text of the subject application. Document DE 2841494 C2 also corresponds to U.S. Patent No. 4,300,201, which was considered by the Examiner in February, 2005, before issuance of the Notice of Allowance.

Document DE 2841494 C2 describes a method for the continuous detection of the bulk weight of grainy, fibrous or leaf-like stock, specifically tobacco of any type. It involves maintaining the mass flow by a two-point regulator in a retaining hopper approximately at a constant level between two photoelectric barriers 17 (Fig. 2). Depending on whether the lower photoelectric barrier or the upper photoelectric barrier 17 is set working, a pole-changing motor is switched to rapid speed or slow speed, which maintains the level in the retaining hopper approximately between those two photoelectric barriers, thus helping obtain a uniform mass flow rate. This reference has the following deficiencies:

1. No weighing container exists (as required by claims 1, 22, and 27-45).

2. No pre-filling chamber separated from the weighing container by a controllable flap (as required by claims 1 and 27-44).

Applicant therefore respectfully submits that claims 1, 22 and 27-45 are patentable under 35 U.S.C. 102(b) over DE 28 41 494 C2.

Claims 1, 22 and 27-45 were rejected under 35 U.S.C. 102(b) over Nagoa et al. In each of claims 1, 22, 27-37 and 39-45, a control device controls the material feed device for the filling of a weighing container by varying the transport speed of a material device for fibrous material that is to be dosed according to a desired theoretical weight curve. In each of claims 1, 27-39, 43 and 44, there is a mixing belt onto which the material is ejected. In each of claims 1, 27-39, 43 and 44, the fibrous material that is to be dosed is removed from fiber bales.

Nagoa et al fails to disclose a mixing belt, much less a mixing belt onto which the material is ejected. Nagoa et al fails to disclose fiber bales, much less fibrous material being removed from fiber bales.

Nagoa et al fails to disclose a desired theoretical weight curve, much less controlling a material feed device for the filling of a weighing container by varying the transport speed of a material device for fibrous material that is to be dosed according to a desired theoretical weight curve. The curve of Nagoa et al's Fig. 5b is not a desired theoretical weight curve. Nagoa et al's column 2, lines 55 to 57 clearly states that  $W_x$  indicates the weight signal that is emitted from the sensor that determines the weight of the product in the weigh hopper 16 (also cf. column 3, lines 34 to 36, and claims 3 and 6). While Fig. 5a depicts the behavior of the width at which the gate aperture 4 opens the retaining hopper 2, Fig. 5b plots the increase in the fibrous material in the weigh

hopper 16 that results from the gate aperture 4. Consequently, Fig. 5 incontestably is a real-weight curve that results from the respective gate aperture width and the flow of material thus produced. This conclusion also becomes particularly clear from Figs. 1 and 2, which show that although conveyance is uniform, the behavior of the real weight is not correspondingly uniform.

Applicant therefore respectfully submits that claims 1, 22 and 27-45 are patentable under 35 U.S.C. 102(b) over Nagoa et al.

Applicant respectfully requests reconsideration and reexamination of claims 1, 22 and 27-45, as presented herein, and submits that these claims are in condition for allowance and should be passed to issue.

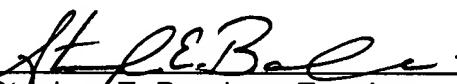
If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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